

**IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

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MARC VEASEY, JANE HAMILTON, )  
SERGIO DELEON, FLOYD J. CARRIER, )  
ANNA BURNS, MICHAEL MONTEX, )  
PENNY POPE, OSCAR ORTIZ, KOBY )  
OZIAS, JOHN MELLOR-CRUMLEY, JANE )  
DOE, JOHN DOE, LEAGUE OF UNITED )  
LATIN AMERICAN CITIZENS (LULAC), )  
AND DALLAS COUNTY, TEXAS, )

*Plaintiffs,*

v.

RICK PERRY, Governor of Texas; and JOHN )  
STEEN, Texas Secretary of State, )

*Defendants.*

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UNITED STATES OF AMERICA, )

*Plaintiffs,*

v.

STATE OF TEXAS, JOHN STEEN, in his )  
official capacity as Texas Secretary of State; )  
and STEVE McCRAW, in his official capacity )  
as Director of the Texas Department of Public )  
Safety, )

*Defendants.*

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TEXAS STATE CONFERENCE OF NAACP )  
BRANCHES; and the MEXICAN )  
AMERICAN LEGISLATIVE CAUCUS OF )  
THE TEXAS HOUSE OF )  
REPRESENTATIVES, )

CIVIL ACTION NO.  
2:13-CV-193 (NGR)  
[Lead case]

CIVIL ACTION NO.  
2:13-CV-263 (NGR)  
[Consolidated case]

	)	
<i>Plaintiffs,</i>	)	
v.	)	CIVIL ACTION NO.
	)	2:13-CV-291 (NGR)
JOHN STEEN, in his official capacity as	)	[Consolidated case]
Secretary of State of Texas; and STEVE	)	
McCRAW, in his official capacity as Director	)	
of the Texas Department of Public Safety,	)	
 <i>Defendants.</i>		

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**DEFENDANTS’ ADVISORY REGARDING SEPTEMBER 2014 TRIAL DATE**

The purpose of this advisory is to inform the Court of the logistical difficulties created by adopting a September 2014 trial date and the significant impact this setting could have on the ability of the Secretary of State and county election officials to conduct an orderly election in November 2014. A September 2014 trial date means this court will render its decision long after the State has taken substantial and irreversible steps towards implementing the November 2014 elections and sets the stage for possible unnecessary and avoidable voter-confusion and disruption at the polling place. In the interest of reducing voter confusion and maintaining public confidence in the State’s elections system, trial should either be set early enough to facilitate a decision before Texas begins to implement the November 2014 elections, or set for March 2015, as requested by the majority of the parties in this case.

**I. Background**

On Friday, November 15, this Court issued a scheduling order setting a trial date on September 2, 2014. The majority of the Plaintiffs—including the

Department of Justice—requested a trial date of March 2015, after the November 2014 election. The State agreed to this proposal both because a majority of the plaintiffs requested it and because it substantially reduced the possibility of unnecessary disruption of the November 2014 elections. A minority of the Plaintiffs requested a trial in September 2014 and requested that a decision be rendered prior to the November 2014 election. The Court set a trial for September of 2014.

**II. A September 2014 trial may cause confusion at the polls and to voters who vote by mail.**

A September 2014 trial date may interject considerable and unnecessary confusion into the polling place during the November 2014 elections. During the hearing in which the Court ordered a September 2014 trial date, some plaintiffs argued that “un-enforcing” the Voter ID statute would be simple should the State be subject to an adverse ruling. In reality, that all depends on the timing of the decision. As the attached Declaration of B. Keith Ingram—which is incorporated by reference—illustrates, although “election day” is in November, the election is well underway months before November.

Elections in Texas are implemented at the county level.<sup>1</sup> The State publishes materials for each of the 254 counties and provides training to the counties. These explanatory materials and training programs will likely have concluded by the time this Court issues an opinion in this case if a trial is not held until September 2014

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<sup>1</sup> See **Exhibit A**, *Declaration of B. Keith Ingram*.

trial date.<sup>2</sup> The Secretary of State has learned that it needs to have the materials at the printers by approximately August 15 for an upcoming November election.<sup>3</sup> If the State were forced to alter or even un-implement a voting law after already providing election materials and substantial training, the likely result is unnecessary and avoidable confusion at the polling place.<sup>4</sup> Attempting to re-educate poll workers (most of whom are volunteers) on such a short timetable is simply not feasible, and the result would likely include confusion, delay, and possibly even inconsistent enforcement of Texas' election laws.<sup>5</sup>

Moreover, many Texans vote during the early voting period, which begins on October 20, 2014.<sup>6</sup> Any change in the law at issue in this case would require the modification and distribution of eight different forms to the 254 counties in order to conduct early voting.<sup>7</sup>

In addition to a substantial likelihood of confusion at polling places, there is also a strong potential for uncertainty for some voters who cast a mail-in ballot. Mail-in voters flagged as ID voters under the Help America Vote Act will be told when they receive their ballots to provide a photocopy of one of the acceptable forms of identification with their ballot.<sup>8</sup> Ballots can be requested by mail beginning on September 5, 2014; military and overseas ballots that have been requested are sent out on September 20, 2014; and domestic ballots are sent out on

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<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

September 27, 2014.<sup>9</sup> Any decision from this Court that would require the State to change what information these voters receive *after* the voters already received information will likely cause confusion.<sup>10</sup> Put simply, a trial that would likely conclude in mid-September 2014 leaves insufficient time for the Court to issue her decision and have that decision implemented smoothly.

**III. The State's desire to avoid unnecessary confusion at the polls in this case is consistent with its desire to avoid confusion during the 2012 elections.**

The State's desire to avoid unnecessary confusion at the polls in this case is consistent with the State's desire to avoid any confusion as a result of its preclearance litigation. Notice of Filing of Affidavit of Keith Ingram, *Texas v. Holder*, 888 F. Supp. 2d 113 (D.D.C.2012) (No. 12-CV-00128). In *Texas v. Holder*, a lawsuit was filed in January of 2012. The State requested a trial be held well before the November election so that the court could render a decision well in advance of the November 2012 elections. The court heard the case in July of 2012, and rendered its decision on August 30, 2012—7 months after the suit was filed. Here, the original action (*Veasey*) was filed on June 26, 2013. The Court, however, has set a trial date for September of 2014—15 months after the suit was filed. Comparatively, the *Veasey* trial begins after a decision had already been rendered in *Texas v. Holder*. The State believes that to prevent confusion at the polls in November 2014 elections, a trial needs to take place either after the November 2014

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<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

election or in time to have a decision before the machinations of the election process begin (approximately August 15).

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I hereby certify that a true and correct copy of the foregoing document is being served by electronic mail or regular mail on November 18, 2013 to the following individuals:

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